PATENT
Attorney Docket No. 101.0036-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Gary Karlin Michelson Serial No.: 10/765,341 Filed: January 27, 2004 For: SURGICAL RONGEUR HAVING A REMOVABLE STORAGE MEMBER (as amended)	Confirmation No.: 1065 Group Art Unit: 3731 Examiner: Michael Thaler

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

TERMINAL DISCLAIMER

Petitioner ("inventor/owner") Gary Karlin Michelson, residing at 438 Sherman Canal, Venice, California 90291, represents that he is the only inventor/owner of the entire right, title and interest in and to the above-identified application, Serial No. 10/765,341 filed January 27, 2004 for SURGICAL RONGEUR HAVING A REMOVABLE STORAGE MEMBER and is the only inventor/owner of the entire right, title and interest in and to:

U.S. Application Serial No. 08/260,072, filed June 15, 1994 (now U.S. Patent No. 5,451,227), for THIN FOOT PLATE MULTI-BITE RONGEUR, as set forth in the Assignments recorded at Reel/Frame 5988/0552 and Reel/Frame 7420/0245, and the corrective document recorded at Reel/Frame 013011/0135;

U.S. Application Serial No. 08/108,908, filed August 18, 1993 (now U.S. Patent No. 6,200,320), for SURGICAL RONGEUR, as set forth in the Assignments recorded on Reel/Frame 6670/0363 and Reel/Frame 7420/0245;

U.S. Application Serial No. 09/790,008 filed February 21, 2001 (now U.S. Patent No. 6,695,849), for SURGICAL RONGEUR, as set forth in the Assignments recorded on Reel/Frame 6670/0363 and Reel/Frame 7420/0245;

U.S. Application Serial No. 08/337,107, filed November 10, 1994 (now U.S. Patent No. 5,653,713), for SURGICAL RONGEUR, as set forth in the corrective document recorded at Reel/Frame 013011/0139; and

U.S. Application Serial No. 08/905,360, filed August 4, 1997 (now U.S. Patent No. 6,142,997), for SURGICAL RONGEUR, as set forth in the corrective document recorded at Reel/Frame 013011/0139.

To obviate a double patenting rejection, Gary Karlin Michelson hereby disclaims, under the provisions of 37 C.F.R. § 1.321, the terminal part of any patent granted on the above-identified application, Serial No. 10/765,341, which would extend beyond the expiration date of any one of U.S. Patent Nos. 5,451,227; 6,200,320; 6,695,849; 5,653,713; and 6,142,997 and hereby agrees that any patent so granted on the above-identified application Serial No. 10/765,341 shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent Nos. 5,451,227; 6,200,320; 6,695,849; 5,653,713; and 6,142,997, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on U.S. Application Serial No. 10/765,341 that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of any one of U.S. Patent Nos. 5,451,227; 6,200,320; 6,695,849; 5,653,713; and 6,142,997, as presently shortened by any terminal disclaimer, in the event that any one of U.S. Patent Nos. 5,451,227; 6,200,320; 6,695,849; 5,653,713; and 6,142,997: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term, as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of $65.00 is to be charged to Deposit Account No. 50-1066.

If there are any additional fees due in connection with the filing of this reply, please charge the fees to our Deposit Account No. 50-1066. If a fee is required for an

extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

The undersigned is authorized to act on behalf of Petitioner Gary Karlin Michelson.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: April 28, 2005

By: _____
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CHANGES TO THE CLAIMS

37. (Twice amended) A rongeur for cutting bone or cartilage, comprising:

a shaft terminating in a foot plate;

a combined cutting element and storage member in moveable~~slideable~~ relationship to said shaft, said combined cutting element and storage member having a leading end and a trailing end opposite said leading end, said leading end having an opening and a cutting edge adapted to contact said foot plate and cut pieces of bone or cartilage, said combined cutting element and storage member having a storage area proximate said cutting edge in communication with said opening in said leading end, said storage area configured to collect and store more than one cut piece of bone or cartilage, said combined cutting element and storage member having a wall between at least a portion of~~shaft being external to~~ said storage area and said shaft~~, said combined cutting element and storage member configured to prevent any of the cut pieces of bone or cartilage stored in said storage area from being ejected from said storage area while said rongeur is being used to cut the bone or cartilage~~; and

a mechanism for providing reciprocal motion of said combined cutting element and storage member and said shaft relative to one another.

47. (Amended) A rongeur for cutting bone or cartilage, comprising:

a shaft terminating in a foot plate;

a carrier~~combined cutting element and storage~~ member in slideable relationship to said shaft, said carrier~~combined cutting element and storage~~ member having a leading end, a trailing end opposite said leading end, and a

hollow interior, said leading end having an opening in communication with said hollow interior;

a tubular member configured to be removeably inserted at least in part into said hollow interior of said carrier, said tubular member having an open end with a cutting edge adapted to contact said foot plate and cut pieces of bone or cartilage, said tubular member having a storage area proximate said cutting edge in communication with said open end, said storage area configured to collect and store at least one cut piece of bone or cartilage, ~~said combined cutting element and storage member configured to prevent any of the cut pieces of bone or cartilage stored in said storage area from being ejected from said storage area while said rongeur is being used to cut the bone or cartilage~~said shaft being in slideable relationship with said carrier member without passing through said tubular member; and

a mechanism for providing reciprocal motion of said carrier~~combined cutting element and storage~~ member and said shaft relative to one another.

48. (Amended) The rongeur of claim 47, wherein said ~~combined cutting element and storage~~carrier member is removeably coupled to at least a portion of said shaft.

49. (Amended) The rongeur of claim 48 further comprising a lock for locking said ~~combined cutting element and storage~~carrier member to at least a portion of said shaft.

50. (Amended) The rongeur of claim 47, wherein said storage area increases in cross sectional area from said leading end to said trailing end of said ~~combined cutting element and storage~~carrier member.

52. (Amended) The rongeur of claim 47, wherein said ~~combined cutting element and storage~~carrier member includes at least a portion thereof that is replaceable.

55. (Amended) The rongeur of claim 47, wherein said mechanism includes a handle for providing said reciprocal motion of said ~~combined cutting element and storage~~carrier member and said shaft relative to one another.

56. (Amended) The rongeur of claim 47, wherein said mechanism for providing said reciprocal motion of said ~~combined cutting element and storage~~carrier member and said shaft relative to one another includes a solenoic.

57. (Amended) The rongeur of claim 47, wherein said ~~combined cutting element and storage~~carrier member is configured to be operatively coupled to at least one of a portion of said shaft and said mechanism.

58. (Amended) The rongeur of claim 57, wherein said ~~combined cutting element and storage~~carrier member is configured to hold the cut pieces of bone or cartilage upon uncoupling from at least one of said shaft and said mechanism.

61. (Amended) A rongeur for cutting bone or cartilage, comprising:

a shaft terminating in a foot plate;

a combined cutting element and storage member in moveable~~slideable~~ relationship to said shaft, said combined cutting element and storage member having a leading end and a trailing end opposite said leading end, said leading end having an opening and a cutting edge adapted to contact said foot plate and cut pieces of bone or cartilage, said combined cutting element and storage member having a storage area proximate said cutting edge in communication with said opening in said leading end, said storage area configured to collect and

store more than one cut piece of bone or cartilage, said combined cutting element and storage member configured to be removeably coupled to at least a portion of said shaft and to continuously hold the majority of the cut pieces of bone or cartilage while beingupon uncoupleding of said combined cutting element and storage member from said shaft and when said combined cutting element and storage member is completely separated from said shaft; and

a mechanism for providing reciprocal motion of said combined cutting element and storage member and said shaft relative to one another.